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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ W.P.(CRL) 1897/2015
NIPUL JAIN @ MONTY JAIN

..... Petitioner

Through: Ms.Anjali J. Manish, Mr. Priyadarshi
Manish and Mr.Rahul Ranjan, Advs.

versus

D R I & ANR

..... Respondent

Through: Ms. Pooja Bhaskar and Mr.Satish
Aggarwala, Advs.

CORAM:
HON'BLE MR. JUSTICE ASHUTOSH KUMAR

% **ORDER**
02.09.2015

The petitioner has come with an innocuous prayer of permitting him to be accompanied by his lawyer when he goes to the DRI Office for interrogation under Section 108 of Customs Act, 1962.

The aforesaid prayer has been made because the petitioner apprehends that a third degree method would be used while interrogating the petitioner under Section 108 of Customs Act, 1962.

The reasons for his suspicion are that on prior occasions when the petitioner was required to be present before the customs authorities, the dates were made known to him only later in point of time. On many instances, the summons to appear before the DRI Office was dispatched later than the date fixed for appearance of the petitioner.

The further ground to suspect the adoption of third degree methods by the respondent authorities is that under similar circumstances and in similar fashion, his brother was noticed and when he went before the authorities, he was not treated well and was taken into custody.

Mr. Satish Aggarwala, learned advocate for the DRI denies such statement or fact. He opposes the prayer of the petitioner. He points out at the conduct of the petitioner as also the gravity of the allegation where huge amount has been siphoned off by the accused persons.

Mr. Aggarwala refers to a judgment of the Supreme Court Namely **Poolpandi vs. Superintendent, Central Excise 1992 (60) E.L.T. 24 (SC)** wherein it was held that if a person is called from his house and is questioned in an atmosphere of customs office without assistance of his lawyer or friend, no constitutional right under Article 21 is violated.

Learned counsel for the petitioner on the other hand has drawn attention of this Court to the judgments delivered in **Senior Intelligence Officer vs. Jugal Kishore Samra** reported in **(2011) 12SCC 362** and **Mahender Kumar Kundiya vs. Union of India** reported in **2015 (319) E.L.T. 9 (SC)**, where such a concession was accorded.

Considering the apprehension of the petitioner, this Court is inclined to acquiesce to the prayer made by the petitioner.

The petitioner would be permitted to be accompanied by his counsel to DRI Office when he next goes there for being interrogated under Section 108 of the Customs Act, 1962. The counsel accompanying the petitioner would be

allowed to be present at the time of interrogation but only within the visible distance but beyond the range of audibility.

Counsel accompanying the petitioner would not insist for hearing any part of the interrogation which will take place inside the DRI Office.

The petition is allowed and disposed of in terms of the aforesaid.

Dasti.

ASHUTOSH KUMAR, J

SEPTEMBER 02, 2015

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